



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2012-0733, EPA-R01-OAR-2012-0935; A-1-FRL- 9911-51-Region-1]

Approval and Promulgation of Air Quality Implementation Plans; Maine and New Hampshire; Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the States of Maine and New Hampshire. The revisions primarily update state regulations containing ambient air quality standards (AAQS) consistent with EPA national ambient air quality standards (NAAQS). The intended effect of this action is to approve these requirements into the Maine and New Hampshire SIPs. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective [Insert date 60 days from date of publication in the Federal Register], unless EPA receives adverse comments by [Insert date 30 days from date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments identified by Docket ID Number EPA-R01-OAR-2012-0733 for comments pertaining to our action for Maine, or EPA-R01-OAR-2012-0935 for comments pertaining to our action for New Hampshire, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047
4. Mail: "Docket Identification Number EPA-R01-OAR-2012-0733 or EPA-R01-OAR-2012-0935," Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912.
5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

Instructions: Direct your comments to Docket ID Number EPA-R01-OAR-2012-0733 for comments pertaining to our action for Maine, or EPA-R01-OAR-2012-0935 for comments pertaining to our action for New Hampshire. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment

includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

In addition, copies of each state's submittal are available for public inspection during normal business hours, by appointment at the corresponding state environmental agency: Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017; and Air Resources Division, Department of Environmental Services, P.O. Box 95, 29 Hazen Drive, Concord, NH 03302-0095.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square - Suite 100, (Mail Code OEP05-02), Boston, MA 02109-3912, telephone 617-918-1584, facsimile 617-918-0584, email mackintosh.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. What Action is EPA Taking?
- II. What is the Background for this Action?
- III. What is Included in the Submittals?
 - A. Maine
 - B. New Hampshire
- IV. EPA's Evaluation of the Submittals.
 - A. Maine
 - B. New Hampshire

V. Final Action.

VI. Statutory and Executive Order Reviews.

I. What Action is EPA Taking?

EPA is approving two SIP revisions submitted by the State of Maine, which include Maine's revised Chapter 110, "Ambient Air Quality Standards," submitted to EPA on August 21, 2012, and Maine's revised Chapter 114, "Classification of Air Quality Control Regions," submitted to EPA on August 31, 2012. EPA is also approving a SIP revision submitted by the State of New Hampshire on November 8, 2012, which includes New Hampshire's revised Env-A 300, "Ambient Air Quality Standards." These state regulations were revised to reflect updates to the federal NAAQS and to clarify the boundary description for an existing air quality control region in the State of Maine.

II. What is the Background for this Action?

Section 109 of the CAA directs EPA to establish NAAQS requisite to protect public health with an adequate margin of safety (primary standard) and for the protection of public welfare (secondary standard). Section 109(d)(1) of the CAA requires EPA to complete a thorough review of the NAAQS at 5-year intervals and promulgate new standards when appropriate. Additionally, Section 107 of the CAA requires the establishment of air quality control regions for the purpose of implementing the NAAQS.

On October 17, 2006 (71 FR 61144), EPA revised the primary and secondary 24-hour NAAQS for fine particulate matter (PM_{2.5}) to 35 micrograms per cubic meter. This final rule became effective on December 18, 2006.

On March 27, 2008 (73 FR 16436), EPA revised the NAAQS for ozone, setting the level of the primary and secondary 8-hour standard to 0.075 parts per million. This final ozone standard rule became effective on May 27, 2008.

On November 12, 2008 (73 FR 66964), EPA revised the NAAQS for lead, setting the level of the primary and secondary standard to 0.15 micrograms per cubic meter and revised the averaging time to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. The final lead standard rule became effective on January 12, 2009.

On February 9, 2010 (75 FR 6474), EPA revised the NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO₂). EPA established a 1-hour primary standard for NO₂ at a level of 100 parts per billion, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing primary and secondary annual standard of 53 parts per billion (61 FR 52852, Oct 8, 1996). The final NO₂ rule became effective on April 12, 2010.

On June 22, 2010 (75 FR 35520), EPA revised the NAAQS for oxides of sulfur as measured by sulfur dioxide (SO₂). EPA established a new 1-hour SO₂ primary standard at a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA also revoked both the previous 24-hour and annual primary SO₂ standards. This final rule became effective on August 23, 2010.

On August 21, 2012, Maine submitted a SIP revision to update its Chapter 110, “Ambient Air Quality Standards.” Then on August 31, 2012, Maine submitted a SIP revision to update its Chapter 114, “Classification of Air Quality Control Regions.” On November 8, 2012, New Hampshire submitted a SIP revision to update its Env-A 300, “Ambient Air Quality Standards.”

On January 15, 2013 (78 FR 3086), EPA revised the primary PM_{2.5} annual NAAQS, lowering the standard to 12.0 micrograms per cubic meter. The final rule became effective on March 18, 2013.

III. What is Included in the Submittals?

A. Maine

Maine’s August 21, 2012, SIP submittal includes revised Chapter 110, “Ambient Air Quality Standards.” This regulation has been revised to explicitly incorporate the new NAAQS, discussed above, with the exception of the latest revision to the PM_{2.5} primary standard. Maine’s SIP revision was submitted on August 21, 2012, prior EPA’s adoption of the 12.0 microgram per cubic meter PM_{2.5} primary annual standard. Specifically, Maine adopted the following substantive changes:

1. The lead primary and secondary rolling 3-month average standards of 0.15 micrograms per cubic meter;
2. The nitrogen dioxide primary 1-hour standard of 100 parts per billion;
3. The ozone primary and secondary 8-hour standards of 0.075 parts per million;
4. The PM_{2.5} primary and secondary annual standard of 15.0 micrograms per cubic meter;

5. The PM_{2.5} primary and secondary 24-hour standards of 35.0 micrograms per cubic meter;
6. The sulfur dioxide primary 1-hour standard of 75 parts per billion; and
7. Ambient air increments for PM_{2.5} under the Prevention of Significant Deterioration (PSD) permit program.

Maine's August 31, 2012 SIP revision includes Maine's revised Chapter 114, "Classification of Air Quality Control Regions," which was revised to clarify that the Moosehorn Wilderness Area located in Moosehorn National Wildlife Refuge is a Class I area. Maine also deleted the rule's prior reference to ozone nonattainment areas.

B. New Hampshire

New Hampshire's SIP submittal contains revised Env-A 300, "Ambient Air Quality Standards." This regulation has been revised to explicitly incorporate the revised NAAQS, discussed above, with the exception of the latest revision to the PM_{2.5} primary standard. New Hampshire's SIP revision was submitted on November 8, 2012, prior EPA's adoption of the 12.0 microgram per cubic meter PM_{2.5} primary annual standard. Specifically, New Hampshire adopted the following substantive changes:

1. The lead primary and secondary rolling 3-month-average standards of 0.15 micrograms per cubic meter;
2. The nitrogen dioxide primary 1-hour standard of 100 parts per billion;
3. The ozone primary and secondary 8-hour standards of 0.075 parts per million;
4. The PM_{2.5} primary and secondary annual standards of 15 micrograms per cubic meter;

5. The PM_{2.5} primary and secondary 24-hour standards of 35 micrograms per cubic meter;
6. The PM₁₀ primary and secondary 24-hour standards of 150 micrograms per cubic meter; and
7. The sulfur dioxide primary 1-hour standard of 75 parts per billion.

IV. EPA's Evaluation of the Submittals

A. Maine

Maine's Chapter 110 was originally approved into the Maine SIP on January 30, 1980 (45 FR 6784). Several updates to the rule were also approved into the Maine SIP, the most recent of which occurred on March 22, 2004 (69 FR 13227). EPA has reviewed Maine's revised Chapter 110 and has determined that it is consistent with the NAAQS in 40 CFR Part 50, with the exception of EPA's latest revision to the PM_{2.5} standard which occurred subsequent to Maine's adoption of the Chapter 110 revised rule.

In addition, Section 8 of Maine's Chapter 110, "Establishment of Ambient Increments," was revised to include ambient air increments for PM_{2.5}, as required under the Clean Air Act's Prevention of Significant Deterioration permit program. (The previously SIP-approved version of the rule included increments for PM₁₀, sulfur dioxide, and nitrogen dioxide which are also in the revised rule.) EPA has reviewed the maximum allowable increases Maine has established for PM_{2.5} and determined that they are consistent with 40 CFR 51.166(c). Therefore, we are approving those PM_{2.5} maximum allowable increases into Maine's SIP. In approving those maximum allowable increases, EPA is not taking action on, or making any determinations about, the way in which these maximum allowable increases relate to existing SIP provisions or

recently amended provisions of Maine's Chapters 100 and 115 pertaining to the way in which "increment" is calculated or used in the PSD permit program.

In summary, Maine's revised Chapter 110 includes additional and more stringent air quality standards than the previous SIP-approved version of the rule. The revised rule also includes ambient air increments for PM_{2.5} that were not included in the previous SIP-approved version of the rule. Thus, the revised Chapter 110 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Maine's revised rule into the Maine SIP.

Maine's Chapter 114 was originally approved into the Maine SIP on January 30, 1980 (45 FR 6874). Updates to the rule were also approved into the Maine SIP, the most recent of which occurred on August 30, 1995 (60 FR 45056). In the current SIP revision, Chapter 114 was revised to clarify that the Moosehorn Wilderness Area located in Moosehorn National Wildlife Refuge is a Class I area and the rule's prior reference to ozone nonattainment areas was deleted.

Maine's updates to Chapter 114 are appropriate. All of Maine was designated as unclassifiable/attainment for the 2008 ozone standard on May 21, 2012 (77 FR 30088). In addition, Maine's nonattainment areas for the 1997 ozone standard were redesignated to attainment on December 11, 2006 (71 FR 71489). See also 40 CFR 81.320. Furthermore, Maine's clarification that Moosehorn Wilderness Area located in Moosehorn National Wildlife Refuge is a Class I area is consistent with 40 CFR Part 81, Subpart D.

In summary, Maine's Chapter 114 revised rule includes updates that are consistent with the applicable sections of the Code of Federal Regulations and is no less stringent than the previous

SIP-approved version of the rule. Therefore, Maine's revised Chapter 114 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Maine's revised rule into the Maine SIP.

B. New Hampshire

New Hampshire's Env-A 300, "Ambient Air Quality Standards," was originally approved into the New Hampshire SIP on March 15, 1983 (48 FR 10830). Updates to the rule were also approved into the New Hampshire SIP, the most recent of which occurred on August 19, 1994 (59 FR 42766). EPA has reviewed New Hampshire's revised Env-A 300 and has determined that it is consistent with the NAAQS in 40 CFR Part 50, with the exception of EPA's latest revision to the PM_{2.5} standard which occurred subsequent to New Hampshire's adoption of the Env-A 300 revised rule.

New Hampshire's revised Env-A 300 includes additional and more stringent air quality standards than the previous SIP-approved version of the rule. Thus, the revised Chapter 110 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Maine's revised rule into the Maine SIP.

V. **Final Action.**

EPA is approving, and incorporating into the Maine SIP, Maine's revised Chapter 110, "Ambient Air Quality Standards," submitted to EPA on August 21, 2012, and Maine's revised Chapter 114, "Classification of Air Quality Control Regions," submitted to EPA on August 31, 2012. EPA is also approving, and incorporating into the New Hampshire SIP, New Hampshire's revised Env-A 300, "Ambient Air Quality Standards," submitted to EPA on November 8, 2012.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve these SIP revisions should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices,

provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, NAAQS, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 16, 2014.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart U—Maine

2. In §52.1020, Table (c) “EPA-APPROVED MAINE REGULATIONS” is amended by revising existing entries for Chapter 110 and Chapter 114 to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED MAINE REGULATIONS

State citation	Title/Subject	State effective date	EPA approval date EPA approval date and citation ¹	Explanations
***	*	*	*	*
Chapter 110	Ambient Air Quality Standards	8/6/2012	[Insert date of FR publication] [Insert Federal Register citation]	
***	*	*	*	*
Chapter 114	Classification of Air Quality Control Regions	8/29/2012	[Insert date of FR publication] [Insert Federal Register citation]	
***	*	*	*	*

¹In order to determining the EPA effective date for a specific provision listed in this table, consult the Federal Register notice cited in this column for the particular provision.

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Subpart EE—New Hampshire

3. In §52.1520, Table (c) “EPA-APPROVED NEW HAMPSHIRE REGULATIONS” is amended by revising the existing entry for Env-A 300 to read as follows:

§52.1520 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date ¹	Explanations
***	*	*	*	*
Env-A 300	Ambient Air Quality Standards.	9/1/2012	[Insert date of <u>FR</u> publication] [Insert <u>Federal Register</u> page number where the document begins]	
***	*	*	*	*

¹In order to determine the EPA effective date for a specific provision listed in this table, consult the Federal Register notice cited in this column for the particular provision.

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[FR Doc. 2014-14531 Filed 06/23/2014 at 8:45 am; Publication Date: 06/24/2014]